

# FEDERAL RESERVE press release



For immediate release

June 8, 1998

The Federal Reserve Board today announced its approval of the notice and application filed by UBS AG, Zurich and Basel, and Union Bank of Switzerland, Zurich, in connection with the proposed merger of Union Bank of Switzerland and Swiss Bank Corporation, Basel, all in Switzerland.

Attached is the Board's Order relating to this action.

Attachment

FEDERAL RESERVE SYSTEM

UBS AG  
Zurich and Basel, Switzerland

Union Bank of Switzerland  
Zurich, Switzerland

Order Approving Acquisition of Nonbanking Companies and  
Establishment of U.S. Branches, Agencies, and Representative Offices

Union Bank of Switzerland ("UBS") and UBS AG ("New UBS"), foreign banking organizations subject to the provisions of the Bank Holding Company Act ("BHC Act"), have requested the Board's approval under section 4(c)(8) of the BHC Act (12 U.S.C. § 1843(c)(8)) and section 225.24 of the Board's Regulation Y (12 CFR 225.24), and New UBS has applied under sections 5(a), 7(d), and 10(a) of the International Banking Act (12 U.S.C. §§ 3103(a), 3105(d) and 3107(a)) ("IBA") and section 211.24 of the Board's Regulation K (12 CFR 211.24), in connection with the proposed merger of UBS and Swiss Bank Corporation, Basel, Switzerland ("Swiss Bank").

The proposal involves the merger of two large foreign banks that are predominantly engaged in banking activities outside the United States and, particularly, in Switzerland. The banking and nonbanking operations of UBS and Swiss Bank in the United States represent a relatively small proportion of their overall banking and nonbanking assets. The Swiss Federal Banking Commission ("Swiss Banking Commission") and the Swiss Federal Competition Commission, which are the primary supervisors of UBS and Swiss Bank, have approved the proposed merger of the banks. The combination of UBS and Swiss Bank would be accomplished through the merger of both banks into a newly formed entity (New

UBS) that currently is jointly owned by UBS and Swiss Bank.<sup>1/</sup> New UBS would be the survivor of these mergers and, after consummation of the transaction, would operate the current businesses of UBS and Swiss Bank.

In connection with these transactions, UBS and New UBS (collectively, "Notificants") have sought the Board's approval under section 4(c)(8) of the BHC Act to acquire the existing nonbanking subsidiaries of Swiss Bank, including SBC Warburg Dillon Read Inc., New York, New York ("SBC Warburg"). New UBS also has sought the Board's approval under section 4(c)(8) of the BHC Act to acquire the existing nonbanking subsidiaries of UBS, including UBS Securities LLC, New York, New York ("UBS Securities"). After consummation of the proposed transaction, New UBS proposes to conduct the following nonbanking activities nationwide:

- (1) Extending credit and servicing loans, in accordance with section 225.28(b)(1) of Regulation Y (12 CFR 225.28(b)(1));
- (2) Engaging in activities related to making, acquiring, brokering or servicing loans or other extensions of credit, including acquiring debt that is in default at the time of acquisition, in accordance with section 225.28(b)(2) of Regulation Y (12 CFR 225.28(b)(2));
- (3) Leasing personal or real property or acting as agent, broker, or adviser in leasing such property, in accordance with section 225.28(b)(3) of Regulation Y (12 CFR 225.28(b)(3));

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<sup>1/</sup> Under the terms of the merger agreement, Swiss Bank will merge with and into New UBS and, shortly thereafter, UBS will merge with and into New UBS. UBS has indicated that the merger of UBS into New UBS is expected to occur one business day after the merger of Swiss Bank into New UBS. After consummation, current shareholders of UBS would own approximately 60 percent of the shares of New UBS, and current shareholders of Swiss Bank would own approximately 40 percent of the shares of New UBS.

- (4) Performing trust company functions, in accordance with section 225.28(b)(5) of Regulation Y (12 CFR 225.28(b)(5));
- (5) Providing financial and investment advisory services, in accordance with section 225.28(b)(6) of Regulation Y (12 CFR 225.28(b)(6));
- (6) Providing securities brokerage, riskless principal, private placement, futures commission merchant, and other agency transactional services, in accordance with section 225.28(b)(7) of Regulation Y (12 CFR 225.28(b)(7));
- (7) Underwriting and dealing in government obligations and money market instruments that state member banks may underwrite or deal in under 12 U.S.C. §§ 335 and 24(7) ("bank-eligible securities"), engaging in investment and trading activities, and buying and selling bullion, and related activities, in accordance with section 225.28(b)(8) of Regulation Y (12 CFR 225.28(b)(8));
- (8) Engaging in community development activities, in accordance with section 225.28(b)(12) of Regulation Y (12 CFR 225.28(b)(12));
- (9) Serving as general partner of certain private investment limited partnerships that invest in assets in which a bank holding company is permitted to invest; and
- (10) Underwriting and dealing in, to a limited extent, all types of securities that a member bank may not underwrite or deal in ("bank-ineligible securities"), except for ownership interests in open-end investment companies.<sup>2/</sup>

Swiss Bank currently operates two state-licensed branches in New York, New York; a state-licensed branch in Chicago, Illinois, and Stamford, Connecticut; a federal branch in San Francisco, California; a state-licensed agency

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<sup>2/</sup> UBS, through UBS Securities, also currently engages in a variety of nonbanking activities in the United States under grandfather rights claimed under section 8(c) of the IBA (12 U.S.C. § 3106(c)).

in Miami, Florida; and a representative office in Los Angeles, California, and Houston, Texas.<sup>3/</sup> UBS currently operates a federal branch in Los Angeles, California; a state-licensed branch and a limited state-licensed branch in New York, New York; a state-licensed agency in Houston, Texas; and a representative office in San Francisco, California, and New York, New York.

Notice of the proposal under section 4 of the BHC Act, affording interested persons an opportunity to submit comments, has been published in the Federal Register (63 Federal Register 6939, 9234 (1998)). In addition, notice of the application under the IBA, affording interested persons an opportunity to submit comments, has been published in a newspaper of general circulation in each community in which New UBS proposes to establish a branch, agency, or representative office.<sup>4/</sup> The time for filing comments has expired, and the Board has considered the application and notices and all comments received in light of the factors set forth in the BHC Act and the IBA.

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<sup>3/</sup> In addition, Swiss Bank has a subsidiary bank in Switzerland, Banca della Svizzera Italiana ("BSI"), that operates a limited state-licensed branch in New York, New York. New UBS has represented that BSI will operate in the same corporate form after the merger. Accordingly, the Board views New UBS's application as fulfilling the notice requirement under section 211.24(a)(4)(i) of Regulation K (12 CFR 211.24(a)(4)(i)).

<sup>4/</sup> Notices were published in the following communities: Chicago, Illinois (*The Chicago Sun-Times*, March 23, 1998); Houston, Texas (*The Houston Chronicle*, March 23, 1998); Los Angeles, California (*The Los Angeles Times*, March 23, 1998); Miami, Florida (*The Miami Herald*, March 23, 1998); New York, New York (*The New York Post*, March 23, 1998); San Francisco, California (*The San Francisco Chronicle*, March 23, 1998); and Stamford, Connecticut (*The Advocate*, March 23, 1998).

UBS, with approximately \$401 billion in consolidated assets, is the 17th largest banking organization in the world.<sup>5/</sup> Swiss Bank, with approximately \$305 billion in consolidated assets, is the 27th largest banking organization in the world. On consummation of the proposal, New UBS would become the second largest banking organization in the world. UBS and Swiss Bank are qualifying foreign banking organizations under section 211.23(b) of the Board's Regulation K (12 C.F.R. 211.23(b)), and New UBS would become a qualifying foreign banking organization on consummation of the proposal.

#### Nonbanking Activities

The Board previously has determined that credit and credit-related activities; leasing activities; trust company activities; financial and investment advisory activities; securities brokerage, riskless principal, private placement, futures commission merchant, and other agency transactional activities; bank-eligible securities underwriting and dealing, investment and trading, and buying and selling bullion and related activities; and community development activities are closely related to banking within the meaning of section 4(c)(8) of the BHC Act.<sup>6/</sup> In addition, the Board previously has determined by order that private

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<sup>5/</sup> Asset data are as of December 31, 1997, and ranking data are as of December 31, 1996.

<sup>6/</sup> See 12 C.F.R. 225.28(b)(1), (2), (3), (5), (6), (7), (8), and (12). The Board received comments from Inner City Press/Community on the Move ("ICP") contending that UBS Community Development Corporation ("UBS-CDC"), a nonbanking subsidiary of UBS authorized to engage in community development activities under Regulation Y, has not engaged in any community development activities and that Notificants must disclose their future plans for the subsidiary. ICP also alleges that UBS has not complied with the representations that it made to the Federal Reserve System in connection with the establishment of UBS-CDC. Notificants have stated that UBS-CDC has made investments consistent with its authority and have requested approval to

investment limited partnership activities are permissible for bank holding companies.<sup>7/</sup> Notificants have committed that they will conduct each of these activities in accordance with the limitations set forth in Regulation Y and the Board's orders and interpretations relating to each of the activities.<sup>8/</sup>

### Bank-Ineligible Securities Activities

Swiss Bank currently is engaged in underwriting and dealing in bank-ineligible securities, to a limited extent, through SBC Warburg.<sup>9/</sup> UBS also currently

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engage in community development activities in the future through UBS-CDC. The Board notes that the Community Reinvestment Act by its terms does not apply to the section 4 notice and IBA application filed by Notificants. Furthermore, based on all the facts of record, including a review by the Federal Reserve Bank of New York of UBS's notice to establish UBS-CDC, the Board concludes that no misrepresentations were made in connection with that notice.

<sup>7/</sup> See Dresdner Bank AG, 84 Federal Reserve Bulletin 361 (1998); Meridian Bancorp, Inc., 80 Federal Reserve Bulletin 736 (1994). Notificants also have requested approval to continue to trade in derivative products to the extent permissible for Swiss Bank under Swiss Bank Corporation, 81 Federal Reserve Bulletin 185 (1995). Notificants have committed to engage in such activities in accordance with the commitments and limitations discussed in that order.

<sup>8/</sup> As a result of prior acquisitions, Swiss Bank currently controls several limited partnerships that invest in debt and equity securities beyond the levels permissible for bank holding companies under section 4 of the BHC Act. Swiss Bank previously has committed to conform these relationships to the requirements of section 4 of the BHC Act within certain time limits. See Swiss Bank Corporation, 83 Federal Reserve Bulletin 786 (1997) ("Swiss Bank 1997") and Letters, dated March 28, 1995 and March 30, 1995, from John S. Cassidy, Assistant Vice President, Federal Reserve Bank of New York, to Mario Cueni. Notificants have committed to conform these relationships to the requirements of section 4 within the time periods previously committed to by Swiss Bank.

<sup>9/</sup> See Swiss Bank 1997.

is engaged in underwriting and dealing in bank-ineligible securities through UBS Securities in reliance on grandfather rights established by section 8(c) of the IBA.<sup>10/</sup> After consummation of the proposal, SBC Warburg would be merged into UBS Securities. Accordingly, New UBS has requested approval under section 4(c)(8) of the BHC Act for UBS Securities to engage in underwriting and dealing in bank-ineligible securities, to a limited extent, after its merger with SBC Warburg.

UBS Securities is, and will continue to be, a broker-dealer registered with the Securities and Exchange Commission ("SEC"), a futures commission merchant registered with the Commodity Futures Trading Commission ("CFTC"), and a member of the National Association of Securities Dealers, Inc. ("NASD"). Accordingly, UBS Securities would remain subject to the recordkeeping and reporting obligations, fiduciary standards, and other requirements of the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), the Commodity Exchange Act (7 U.S.C. § 2 et seq.), the SEC, the CFTC, and the NASD.

The Board has determined that, subject to the framework of prudential limitations established in previous decisions to address the potential for conflicts of interests, unsound banking practices, or other adverse effects, underwriting and dealing in bank-ineligible securities is so closely related to banking as to be a proper incident thereto within the meaning of section 4(c)(8) of the BHC Act.<sup>11/</sup> The Board

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<sup>10/</sup> See 12 U.S.C. § 3106(c).

<sup>11/</sup> See J.P. Morgan & Co. Inc., et. al., 75 Federal Reserve Bulletin 192 (1989), aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System, 900 F.2d 360 (D.C. Cir. 1990); Citicorp, 73 Federal Reserve Bulletin 473 (1987), aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System, 839 F.2d 47 (2d Cir.), cert. denied, 486 U.S. 1059 (1988), as modified by Review of Restrictions on Director, Officer and Employee Interlocks, Cross-Marketing Activities, and the Purchase and Sale of Financial Assets Between a Section 20 Subsidiary and an Affiliated Bank or Thrift,



also has determined that underwriting and dealing in bank-ineligible securities is consistent with section 20 of the Glass-Steagall Act (12 U.S.C. § 377), provided that the company engaged in the activities derives no more than 25 percent of its gross revenues from underwriting and dealing in bank-ineligible securities over a two-year period.<sup>12/</sup> Notificants have committed that, following consummation of the transaction, UBS Securities will conduct its bank-ineligible securities underwriting and dealing activities subject to the 25-percent revenue limitation and the prudential limitations previously established by the Board, and this order is conditioned on compliance by Notificants with the revenue restriction and Operating Standards established for section 20 subsidiaries.<sup>13/</sup>

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61 Federal Register 57,679 (1996), Amendments to Restrictions in the Board's Section 20 Orders, 62 Federal Register 45,295 (1997); and Clarification to the Board's Section 20 Orders, 63 Federal Register 14,803 (1998) (collectively, "Section 20 Orders").

<sup>12/</sup> See Section 20 Orders. Compliance with the revenue limitation shall be calculated in accordance with the method stated in the Section 20 Orders, as modified by the Order Approving Modifications to the Section 20 Orders, 75 Federal Reserve Bulletin 751 (1989), and 10 Percent Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engage in Underwriting and Dealing in Securities, 61 Federal Register 48,953 (1996); and Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities, 61 Federal Register 68,750 (1996) (collectively, "Modification Orders").

<sup>13/</sup> 12 C.F.R 225.200. UBS Securities may provide services that are necessary incidents to the proposed underwriting and dealing activities. Unless UBS Securities receives specific approval under section 4(c)(8) of the BHC Act to conduct the activities independently, any revenues from the incidental activities must be treated as ineligible revenues subject to the Board's revenue limitation.

### Comments on the Proposal

The Board received timely comments on the proposal from a member of the United States Senate, ICP, and two individuals. Commenters contend that UBS and Swiss Bank have failed to take adequate steps to locate and preserve documents and other information relating to accounts and assets that may belong to victims of the Holocaust or their heirs and to other accounts that have been dormant since the end of World War II. The commenters also contend that UBS and Swiss Bank have acted improperly, fraudulently, or without sufficient alacrity in handling claims to accounts that may be owned by victims of the Holocaust or their heirs.<sup>14/</sup> In addition, the commenters contend that UBS and Swiss Bank have failed to cooperate with domestic and foreign governmental authorities, international organizations, and private individuals that are seeking to obtain documentary and other information concerning accounts that may belong to victims of the Holocaust or their heirs and resolve claims to such accounts.<sup>15/</sup>

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<sup>14/</sup> One commenter also contends that UBS and Swiss Bank served as depositories for gold and other funds seized by the Nazi government from individuals and nations during World War II and otherwise collaborated with the Nazis. This commenter contends that the banks have sought to conceal their actions in this regard and to prevent the return of stolen assets.

<sup>15/</sup> One commenter also noted that several states and municipalities have threatened to terminate their relationships with Swiss banks if the banks do not take additional steps to resolve claims by victims of the Holocaust and their heirs and that UBS and Swiss Bank are parties to several pending lawsuits concerning the disposition of assets that may belong to victims of the Holocaust or their heirs. The Board notes that these lawsuits remain pending and that Swiss banks, including UBS and Swiss Bank, recently have entered into negotiations with the plaintiffs and other parties to seek a negotiated and comprehensive settlement of the pending actions.

The Board also received comments from the New York State Banking Department ("NYSBD") detailing concerns that the NYSBD initially had regarding the manner in which UBS and Swiss Bank have handled accounts of victims of the Holocaust or their heirs and the steps taken by the banks to address these concerns. The NYSBD has indicated that in December 1997, Swiss Bank and its New York branch entered into a consent order with the NYSBD that required Swiss Bank's New York branch to initiate a number of steps designed to improve the branch's ability to track and retrieve information concerning pre-1945 accounts and respond to inquiries from the NYSBD regarding such accounts. In April 1998, UBS and its New York branch entered into a similar consent order with the NYSBD.<sup>16/</sup> The NYSBD has stated that Swiss Bank and UBS are in compliance with the terms of the consent orders, and that the NYSBD believes that the management of Swiss Bank and UBS are committed to cooperating with the Department and ensuring the bank's continued compliance with the consent order. The NYSBD also has stated that both banks have established extensive search and audit processes to identify and organize data relating to accounts from the wartime period and to investigate claims to such accounts. Based on its review of these and other actions taken by UBS and Swiss Bank, the NYSBD has approved the proposed establishment by New UBS of the branches and representative office of UBS and Swiss Bank in New York.

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<sup>16/</sup> The consent order requires that UBS and its New York branch cooperate with the NYSBD and its Holocaust Claims Processing Office ("HCPO") and hire an independent accounting or consulting firm to investigate, inventory, catalog, and review all documents held by Swiss Bank relating to assets transferred by Swiss Bank to New York prior to and during World War II. The HCPO is a branch of the NYSBD established to assist Holocaust survivors and their heirs recover assets held by Swiss banks.

The Board also sought the views of the Independent Committee of Eminent Persons ("Volcker Commission"), an independent committee established to oversee a comprehensive, investigative audit of Swiss banks, including UBS and Swiss Bank.<sup>17/</sup> The Volcker Commission audit process is designed to identify all dormant accounts or other financial assets held by Swiss banks during the 1933-1945 period that may belong to victims of Nazi persecution or their heirs ("dormant accounts").<sup>18/</sup> The Board notes that Swiss law requires that all Swiss banks cooperate fully with the audit being conducted by the Volcker Commission, which is being conducted in two phases by four large international audit firms retained by the Commission.

The Volcker Commission has stated that during the first phase of the audit the Commission's auditors conducted a pilot audit of Swiss Bank and a review of the programs at UBS for the retention of documents related to dormant accounts.<sup>19/</sup> The Volcker Commission also has stated that both UBS and Swiss

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<sup>17/</sup> One commenter contends, without providing any supporting evidence, that UBS illegally confiscated large quantities of gold and other financial assets from a number of individuals represented by the commenter in violation of state, federal, and Swiss law. Commenter has filed a lawsuit in U.S. district court to recover the assets that allegedly were confiscated by UBS. The Board notes that there has been no final adjudication of this lawsuit or finding of wrongdoing on the part of UBS. The courts, moreover, have adequate authority to provide commenter with redress if commenter's allegations can be supported.

<sup>18/</sup> The Volcker Commission was established in May 1996, under a memorandum of understanding between the Swiss Bankers Association ("SBA") and the World Jewish Congress. The Commission consists of seven persons, three of whom were selected by the World Jewish Restitution Organization and three of whom were selected by the SBA. The members jointly selected Paul A. Volcker to serve as chairman of the committee.

<sup>19/</sup> The pilot audit of Swiss Bank involved a preliminary investigation into dormant accounts held by the bank as well as an investigation into the bank's

Bank cooperated with these investigations. Furthermore, the Volcker Commission has indicated that the investigations concluded that Swiss Bank and UBS had adequate internal procedures to safeguard documents related to dormant accounts under Swiss law.<sup>20/</sup>

The second phase of the audit process, which currently is ongoing, involves the on-site investigations of Swiss banks by the Volcker Commission auditors to locate and identify all dormant accounts held by the banks. The Volcker Commission has stated that the auditors have been on-site at UBS and Swiss Bank since September 1997 preparing for and conducting the second phase of the audit and that the major elements of this phase are expected to be completed by the end of 1998. In addition, the Volcker Commission has reported that both banks are cooperating with the auditors and have devoted substantial personnel and physical

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procedures for retaining documents that may relate to dormant accounts. The document retention investigation at UBS examined the bank's document retention policies and procedures, archive and storage procedures, document destruction procedures, and dormant account recordkeeping practices.

<sup>20/</sup> Swiss law prohibits Swiss banks from destroying any documents that relate to accounts in existence prior to the end of World War II, including dormant accounts that may belong to victims of the Holocaust or their heirs. Certain commenters contend that in January 1997, a UBS employee improperly destroyed documents that were protected by Swiss law. These allegations have been investigated by Swiss authorities, who determined that no legal action against UBS or the employee was warranted. UBS has stated that its management did not order or authorize the destruction of documents by the employee and has taken steps to prevent the destruction of protected documents. Furthermore, as noted above, the Volcker Commission's auditors concluded that UBS has adequate policies and procedures in place to preserve documents related to dormant accounts and protected by Swiss law.

resources to assist the audit firms in locating, cataloging, and establishing databases of the documentary records relating to dormant accounts.<sup>21/</sup>

The Volcker Commission and the SBA also have jointly established an independent Claims Resolution Tribunal to resolve all claims to dormant accounts opened by non-Swiss customers and identified on lists of dormant accounts published by the SBA in July and October 1997.<sup>22/</sup> The Claims Resolution Tribunal reviews claims to published dormant accounts free of charge and uses relaxed standards of proof that take into consideration the difficulties Holocaust victims or their heirs may have in presenting evidence of legal or beneficial ownership to an account.<sup>23/</sup> The Swiss Banking Commission has informed the Board that UBS and Swiss Bank have cooperated with the Swiss Banking Commission, the SBA, and the Volcker Commission during the claims resolution process, and that the Swiss

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<sup>21/</sup> The Swiss federal government also has established the Swiss Historical Commission -- Second World War ("Bergier Commission"), an independent commission charged with investigating the extent and fate of all assets that entered Switzerland as a result of the Nazi regime, including assets owned by or seized from victims of the Holocaust. The Bergier Commission has the authority to review all records in the possession of the Swiss government and companies relevant to its investigation. The Bergier Commission recently presented a detailed interim report to the Swiss government concerning gold transactions between Swiss entities, including the Swiss National Bank and Swiss commercial banks, and the German Reichsbank during World War II.

<sup>22/</sup> The published lists contained more than 5,000 names connected with dormant accounts identified by the Volcker Commission auditors or independently by Swiss banks.

<sup>23/</sup> The Tribunal consists of 16 arbitrators from several countries and is overseen by a Board of Trustees consisting of Mr. Volcker (Chairman), a member of the Swiss Parliament and a representative of the World Jewish Congress. The Volcker Commission has stated that the Tribunal is currently processing 6,000 of the 8,736 claims submitted.

Banking Commission is fully satisfied with the efforts of the two banks in connection with the Claims Resolution Tribunal.<sup>24/</sup>

The Board also sought the views of the United States Department of State on the matters raised by the commenters. Although the State Department stated that it took no position on the merits of the proposal, the Department noted that it has supported the several initiatives taken by the Swiss government and Swiss banks to address the issues related to dormant accounts that may belong to Holocaust victims or their heirs and has expressed confidence that these initiatives and the commitments undertaken so far will be fully carried out. The State Department further noted that sanctions against Swiss banks are not justified and would only retard ongoing progress on these issues.

The Board has carefully reviewed the comments submitted by the commenters in light of all the facts of record, including the information received from the Volcker Commission, the State Department, UBS and Swiss Bank, and confidential supervisory information received from the NYSBD and the Swiss Banking Commission.<sup>25/</sup> Although the matters raised by commenters involve subjects of public concern, the Board believes that many of these matters involve disputes that are not within the Board's limited jurisdiction to adjudicate or do not

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<sup>24/</sup> One commenter raised questions concerning UBS and Swiss Bank's handling of three accounts that are included on the dormant account lists published by the SBA in 1997. The Board has considered these comments in light of confidential supervisory information received from the Swiss Banking Commission concerning the opening, handling, and closing of these accounts and actions taken by the banks to resolve claims to the accounts as well as information provided by the NYSBD.

<sup>25/</sup> The NYSBD submitted confidential information to the Board concerning the Department's investigation into the activities of Swiss banks in New York State prior to and during World War II and the Department's supervisory experience with Swiss banks during the conduct of this investigation.

relate to the factors that the Board may consider in reviewing an application or notice under the BHC Act or the IBA.<sup>26/</sup> To the extent that the matters raised by commenters relate to the factors that the Board is authorized to consider, the Board concludes, based on all the facts of record and for the reasons discussed above and in this order, including the cooperation of UBS and Swiss Bank with the appropriate investigating and supervisory authorities, that such matters do not warrant denial of the proposal.

#### Evaluation under the IBA

In order to approve an application by a foreign bank to establish a branch, agency, or representative office in the United States, the IBA and Regulation K require the Board to determine that the foreign bank engages directly in the business of banking outside the United States and has furnished to the Board the information it needs to assess the application adequately. The Board also generally must determine that the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor (12 U.S.C. § 3105(d)(2),(6); 12 CFR 211.24(c)(1)).<sup>27/</sup> The Board also may take into

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<sup>26/</sup> The factors that the Board may consider in reviewing an application under section 4 of the BHC Act and the IBA are limited by those acts. Moreover, the Board previously has noted and the courts have held that the Board's limited jurisdiction to review applications under the BHC Act and the IBA does not authorize the Board to adjudicate disputes involving an applicant that do not arise under laws administered and enforced by the Board. See Norwest Corporation, 82 Federal Reserve Bulletin 580 (1996); see also Western Bancshares v. Board of Governors, 480 F.2d 749 (10th Cir. 1973).

<sup>27/</sup> In acting on an application to establish a representative office, the IBA and Regulation K provide that the Board shall take into account whether the foreign bank is subject to comprehensive supervision or regulation but a determination on this factor is not required. See 12 U.S.C. § 3107(a)(2); 12 C.F.R. 211.24(d)(2).



account additional standards set forth in the IBA (12 U.S.C. § 3105(d)(3), (4)) and Regulation K (12 CFR 211.24(c)(2)).

On consummation of the merger, New UBS would engage directly in the business of banking outside the United States through its banking operations in Switzerland and elsewhere. UBS, Swiss Bank, and New UBS have provided the Board with the information necessary to assess the application through submissions that address the relevant issues.

The Board also has carefully considered, in light of all the facts of record and the comments received on the proposal, whether the foreign banks involved in the proposal are subject to comprehensive supervision or regulation on a consolidated basis.<sup>28/</sup> Regulation K provides that a foreign bank will be considered to be subject to comprehensive supervision or regulation on a consolidated basis if the Board determines that the bank is supervised and regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the foreign bank, including its relationship to any affiliate, to assess the bank's overall financial condition and its compliance with law and regulation (12

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<sup>28/</sup> Certain commenters questioned whether UBS and Swiss Bank are subject to comprehensive consolidated supervision and regulation in light of the ongoing investigations into the banks' handling of accounts owned by victims of the Holocaust and claims to such accounts, and losses recently incurred by the equity derivatives business of UBS.

CFR 211.24(c)(1)(ii)).<sup>29/</sup>

The primary supervisor of New UBS will be the Swiss Banking Commission. The Board previously has determined, in connection with applications under the IBA submitted by Swiss Bank and UBS, that both banks were subject to home country supervision on a consolidated basis.<sup>30/</sup> The Board has determined that New UBS will be supervised by the Swiss Banking Commission on substantially the same terms and conditions as Swiss Bank and UBS. Based on all the facts of record, the Board has concluded that New UBS would be subject to comprehensive supervision and regulation on a consolidated basis by its home country supervisor.

The Board also has taken into account the additional standards set forth in the IBA (12 U.S.C. § 3105(d)(3), (4)) and Regulation K (12 CFR 211.24(c)(2)). The Swiss Banking Commission has consented to the establishment by New UBS of the branches, agencies, and representative offices in the United States referenced in this order. In addition, the record indicates that New UBS has established controls and procedures in each of the proposed U.S. offices to ensure compliance with

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<sup>29/</sup> In assessing this standard, the Board considers, among other factors, the extent to which the home country supervisors: (i) ensure that the bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtain information on the condition of the bank and its subsidiaries and offices through regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis, or comparable information that permits analysis of the bank's financial condition on a worldwide consolidated basis; and (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. These are indicia of comprehensive consolidated supervision; no single factor is essential and other elements may inform the Board's determination.

<sup>30/</sup> See Swiss Bank Corp., 83 Federal Reserve Bulletin 214 (1997); Union Bank of Switzerland, 82 Federal Reserve Bulletin 370 (1996).

applicable U.S. law, as well as controls and procedures for its worldwide operations generally.

With regard to access to information, the Board has reviewed the restrictions on disclosure in relevant jurisdictions in which New UBS would operate and has communicated with relevant government authorities about access to information. New UBS has committed to make available to the Board such information on the operations of New UBS and any affiliate of New UBS that the Board deems necessary to determine and enforce compliance with the IBA, the BHC Act, and other applicable federal law. To the extent that the provision of such information may be prohibited or impeded by law or otherwise, New UBS has committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties in connection with disclosure of certain information. In addition, subject to certain conditions, the Swiss Banking Commission may share information on the operations of New UBS with other supervisors, including the Board. In light of these commitments and other facts of record, and subject to the condition described below, the Board has concluded that New UBS has provided adequate assurances of access to any necessary information the Board may request.<sup>31/</sup>

Establishment of Interstate Branches. Section 5(a) of the IBA establishes additional criteria that must be met for the Board to approve the establishment of branches outside a foreign bank's home state. On consummation,

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<sup>31/</sup> One commenter questioned whether New UBS has provided other appropriate commitments to the Board. New UBS has made the commitments required in connection with its application.

New UBS will designate Connecticut as its home state.<sup>32/</sup> New UBS proposes to establish the following branches outside Connecticut: Swiss Bank's two state-licensed branches in New York, New York, and its state-licensed branch in Chicago, Illinois; and UBS's federal branch in Los Angeles, California, and its state-licensed branch in New York, New York.

Under section 5(a) of the IBA (12 U.S.C. § 3103(a)), as amended by section 104 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 ("Riegle-Neal Act"), a foreign bank, with the approval of the Board and the Office of the Comptroller of the Currency ("OCC") or the appropriate state banking supervisor, may establish and operate a branch in any state outside its home state to the extent that a bank with the same home state as the foreign bank could do so under section 44 of the Federal Deposit Insurance Act ("FDI Act"). Section 44 of the FDI Act permits approval of a merger transaction under the Bank Merger Act between banks with different home states, provided that neither of the states has elected to prohibit interstate merger transactions. Connecticut and California law satisfy this requirement.<sup>33/</sup> All other applicable conditions of section 44 of the FDI Act also have been met by the proposal.<sup>34/</sup>

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<sup>32/</sup> Because Connecticut will be the home state of New UBS, New UBS does not need approval under section 5(a) of the IBA to establish Swiss Bank's state-licensed branch in Stamford, Connecticut.

<sup>33/</sup> See Conn. Gen. Stat. Ann. § 36a-411 (West 1996); Cal. Fin. Code § 3754(c) (West 1998). Currently, Swiss Bank's home state is Connecticut, and UBS's home state is California.

<sup>34/</sup> Section 5(a) of the IBA requires that certain conditions of section 44 of the FDI Act be met in order for the Board to approve an interstate banking transaction under section 5(a)(1) of the IBA. See 12 U.S.C. § 3103(a)(3)(C) (referring to sections 44(b)(1), 44(b)(3), and 44(b)(4) of the FDI Act (12 U.S.C. §§ 1831u(b)(1), (continued...))

The Board has determined that all of the other criteria referred to in section 5(a)(3) of the IBA,<sup>35/</sup> including the criteria in section 7(d) of the IBA, have been met. In particular, the Board has determined, after consultation with the Secretary of the Treasury, that the financial resources of New UBS are equivalent to those required for a domestic bank to receive approval for interstate branching under section 44 of the FDI Act. In view of all the facts of record, the Board is permitted to approve the establishment of interstate branches by New UBS under section 5(a) of the IBA.

Establishment of Agencies and Limited Branches. Under section 5(a)(7) of the IBA (12 U.S.C. § 3103(a)(7)), as amended by section 104 of the Riegle-Neal Act, a foreign bank, with the approval of the Board, may establish an agency or limited branch outside its home state, provided the establishment and operation of the agency or limited branch is expressly permitted by the state in which the agency or limited branch is to be established. Outside its home state, New UBS proposes to establish a limited federal branch in San Francisco,

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<sup>34/</sup>(...continued)

(b)(3), and (b)(4))). The Board has determined that New UBS is in compliance with state filing requirements. Community reinvestment considerations also are consistent with approval. As discussed more fully elsewhere in this order, each of Swiss Bank and UBS was adequately capitalized as of the date the application was filed, and, on consummation of this proposal, New UBS would continue to be adequately capitalized and adequately managed.

<sup>35/</sup> The Riegle-Neal Act provides that a bank resulting from an interstate merger may, with Board approval, retain and operate, as a branch, any office that any bank involved in the merger transaction was operating as a main office or branch immediately before the merger transaction. See 12 U.S.C. § 1831u(d)(1). Therefore, New UBS may retain and operate the state-licensed branches outside of Connecticut currently being operated by Swiss Bank and UBS, provided the criteria in section 5(a)(3) of the IBA have been met.

California; a limited state-licensed branch in New York, New York; and a state-licensed agency in Miami, Florida, and Houston, Texas. Based on a review of the relevant law of each of these states, the Board has determined that New UBS may establish the agencies and limited branches discussed above, subject to the condition that New UBS also receive the approval of the OCC for the limited federal branch and of the relevant state supervisors for the two state-licensed agencies and the limited state-licensed branch.

#### Financial, Managerial, and Other Considerations

In order to approve the proposal, the Board also must determine that the proposed nonbanking activities are a proper incident to banking, that is, that the proposed transaction "can reasonably be expected to produce benefits to the public . . . that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."<sup>36/</sup> As part of its evaluation of these factors, and the standard set forth in section 211.24(c) of Regulation K, the Board considers the financial condition and managerial resources of the notificant and its subsidiaries and the effect the transaction would have on such resources.<sup>37/</sup> The Board has carefully considered the financial and managerial resources of the organizations involved in light of all the facts of record, including comments received on the proposal,<sup>38/</sup> the responses of

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<sup>36/</sup> 12 U.S.C. § 1843(c)(8).

<sup>37/</sup> See 12 CFR 225.26; see also The Fuji Bank, Limited, 75 Federal Reserve Bulletin 94 (1989); Bayerische Vereinsbank, 73 Federal Reserve Bulletin 155 (1987).

<sup>38/</sup> These comments include contentions that: (1) merger-related costs will reduce the profits of New UBS; (2) UBS has suffered large losses in its equity derivatives business that have not been fully disclosed by the bank; (3) UBS does  
(continued...)

UBS and Swiss Bank, and confidential examination and other supervisory information. The supervisory information considered by the Board includes information provided by the Swiss Banking Commission and the Bank of England assessing the internal controls and risk-management policies and procedures that would govern the equity derivatives business of New UBS in London. After consummation of the proposal New UBS will use the existing risk management policies, procedures and systems of Swiss Bank in connection with the operation of the bank's worldwide equity derivatives business, and the Board has considered the comments on the proposal in light of the Board's supervisory experience with the risk management systems of Swiss Bank.

Switzerland is a signatory to the Basle risk-based capital standards, and Swiss risk-based capital standards meet those established by the Basle Capital Accord. On consummation of the merger, the capital of New UBS would be in excess of the minimum levels that would be required by the Basle Capital Accord and is considered equivalent to the capital that would be required of a U.S. banking organization. New UBS, furthermore, appears to have the experience and capacity to support its proposed branches, agencies, and representative offices in the United States.

The Board also has reviewed the capitalization of New UBS, UBS, SBC Warburg, and UBS Securities in light of the standards set forth in the Section 20 Orders. The Board finds the capitalization of each to be consistent with approval of the proposal and the Section 20 Orders. The Board's determination is based on

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<sup>38/</sup>(...continued)

not have adequate internal controls to properly manage its global equity derivatives business; and (4) the financial resources of New UBS will be adversely affected by the boycott of Swiss banks by clients, states, and municipalities and pending litigation related to the banks' handling of accounts of Holocaust victims.

all the facts of record, including New UBS's projections of the volume of bank-ineligible securities underwriting and dealing activities to be conducted by UBS Securities.

The Board also has carefully reviewed the managerial resources of the organizations involved in light of examination reports and the Board's supervisory experience with UBS, Swiss Bank, and SBC Warburg.<sup>39/</sup> The Board has considered that Swiss Bank has established policies and procedures to ensure compliance with this order and the Section 20 Orders, including computer, audit, and accounting systems, internal risk management controls, and the necessary operational and managerial infrastructure. New UBS has stated that these policies and procedures will be used by UBS Securities following its merger with SBC Warburg to ensure compliance with this order and the Section 20 Orders. On the basis of these and all the facts of record, including the commitments provided in this case, the proposed managerial structure and risk management systems of New UBS and UBS Securities, and information received from the NYSBD, the Volcker Commission, and the Swiss Banking Commission, the Board has concluded that financial and managerial considerations are consistent with approval of the notice.

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<sup>39/</sup> One commenter contended that Swiss Bank has improperly denied his daughter access to funds held in an account at branch of the bank in Zurich, Switzerland, and that Swiss Bank has provided false information to commenter and the Board concerning the current status and monetary holdings of the account. The Board has forwarded these comments to the Swiss Banking Commission, which is the primary supervisor of Swiss Bank's activities in Switzerland. The Board notes that the Swiss Banking Commission has adequate supervisory authority to investigate commenter's claims and provide redress if the Commission determines that such action is necessary or appropriate. The Board also has considered commenter's contentions in light of all the facts of record, including confidential examination and other supervisory information assessing the managerial resources of Swiss Bank.



The Board also has carefully considered the competitive effects of the proposed transaction under section 4 of the BHC Act. To the extent that UBS and Swiss Bank offer different types of nonbanking products, the proposed acquisition would result in no loss of competition. In those markets in which the nonbanking product offerings of UBS and Swiss Bank overlap, such as securities brokerage, underwriting and dealing in bank-ineligible securities, and investment advisory activities, there are numerous existing and potential competitors. Consummation of the proposal, therefore, would have a de minimis effect on competition in the market for these services. Based on all the facts of record, the Board has concluded that the proposal would not result in any significantly adverse competitive effects in any relevant market.

As noted above, Notificants have committed that, following the proposed acquisition, UBS Securities will conduct its bank-ineligible securities underwriting and dealing activities in accordance with the prudential framework established by the Board's Section 20 Orders. Under the framework and conditions established in this order and the Section 20 Orders, and based on all the facts of record, the Board concludes that the underwriting and dealing activities in bank-ineligible securities proposed by Notificants are not likely to result in significantly adverse effects that would outweigh the public benefits. Similarly, the Board concludes that the conduct of the other proposed nonbanking activities by Notificants under the framework and conditions established in this order, prior orders and Regulation Y is not likely to result in any significantly adverse effects that would outweigh the public benefits of the proposal.

The Board expects that the proposed acquisition would provide added convenience to customers of both UBS and Swiss Bank. Notificants have indicated that the transaction would allow the combined organization to expand the range of

products and services available to customers of UBS and Swiss Bank. Notificants also have stated that the proposed transaction would allow the combined organization to achieve economies of scale and operational efficiencies through the combination of the distribution structure, product development efforts, and back office and technological infrastructure of UBS and Swiss Bank. In addition, Notificants have stated that the transaction is expected to produce cost savings, allow the combined organization to more profitably allocate its equity, and permit the combined organization to make additional banking and nonbanking investments in the United States and overseas. Based on all the facts of record, the Board has determined that performance of the proposed activities by Notificants can reasonably be expected to produce public benefits that outweigh any adverse effects of the proposal. Accordingly, the Board has determined that performance of the proposed activities by UBS and New UBS is a proper incident to banking for purposes of section 4(c)(8) of the BHC Act.

#### Grandfathered Nonbanking Activities

UBS currently engages through UBS Securities in merchant banking activities in the United States that are not permissible under section 4 of the BHC Act.<sup>40/</sup> UBS claims authority to engage in these activities under section 8(c) of the IBA, which permits an eligible foreign bank to continue to engage in nonbanking activities in the United States that the foreign bank conducted directly or through an affiliate on July 26, 1978, or that were covered by an application filed by the foreign bank or an affiliate on or before July 26, 1978. New UBS has requested that it be permitted to continue to engage in merchant banking activities in the United States

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<sup>40/</sup> 12 U.S.C. § 3106(c)(1). UBS filed an application with the SEC to register UBS Securities as a broker-dealer prior to July 26, 1978.

after consummation of the proposal in reliance on the grandfather rights provided in section 8(c) of the IBA.<sup>41/</sup>

The Board believes that the grandfather rights provided by section 8(c) of the IBA should be construed narrowly to ensure a fair competitive playing field to the extent consistent with statutory requirements. After careful review of the IBA in light of the facts of this case, the Board concludes that New UBS does not qualify for grandfather rights under section 8(c) of the IBA and that any grandfather rights that UBS currently may have under section 8(c) terminate on consummation of the proposal.<sup>42/</sup> In connection with the proposal UBS will merge with and into New UBS. Accordingly, after consummation, a new top-tier corporate entity would exist,

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<sup>41/</sup> ICP contends that UBS does not currently have grandfather rights under section 8(c) of the IBA to engage in merchant banking activities in the United States, and that any grandfather rights that UBS may have under section 8(c) of the IBA would terminate on consummation of the proposal because Swiss Bank would be the true survivor of the proposed transaction. Alternatively, ICP requests that the Board hold a hearing and exercise its authority under section 8(c) to terminate the grandfather rights of UBS.

<sup>42/</sup> To sustain the argument that New UBS may make merchant banking investments, New UBS must meet two requirements: that UBS has grandfather rights to make merchant banking investments and that any such grandfather rights of UBS transfer to New UBS. New UBS argues that UBS has grandfather rights to make merchant banking investments because UBS had applied to engage in securities brokerage, underwriting, and dealing activities in the United States on the grandfather date and that these activities have evolved in the marketplace since that time to include making merchant banking investments. Consistent with principles of statutory construction, the Board has narrowly interpreted grandfather rights and, in any event, for the reasons discussed in this order, has determined that New UBS is not entitled to any grandfather rights.

New UBS. Because New UBS is a newly formed entity, New UBS does not meet the criteria for grandfather rights under section 8(c) of the IBA.<sup>43/</sup>

Notificants contend, however, that any grandfather rights that UBS currently may have under section 8(c) of the IBA should transfer to New UBS on consummation of the proposal. The Board previously has permitted one corporate entity to receive the section 8(c) grandfather rights of another entity in the case of an internal corporate reorganization of a foreign bank with grandfather rights.<sup>44/</sup> In this case, New UBS results from the merger of two large and nearly equal-sized foreign banking organizations and New UBS would operate under the existing banking charter of Swiss Bank, rather than UBS.<sup>45/</sup> After consummation of the proposal, a new organization (New UBS) will exist that controls all of the existing banking and nonbanking assets currently owned by UBS and Swiss Bank and that, as a result, will be significantly larger than UBS in terms of assets, capital, market capitalization, and number of banking and nonbanking offices in the United States and overseas. Unlike the previous case, the shareholders of New UBS will include

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<sup>43/</sup> To be eligible for grandfather rights under section 8(c) of the IBA, a foreign bank or other company must either (i) have operated a branch or agency in a state or controlled a commercial lending company organized under state law on the date of enactment of the IBA, or (ii) have established a branch in a state after the date of enactment of the IBA under an application that was filed on or before July 26, 1978. See 12 U.S.C. 3106(c)(1). New UBS did not operate a branch or agency in a state or control a commercial lending company organized under state law on the date of enactment of the IBA, nor did New UBS have an application to establish a branch pending before a state on July 26, 1978.

<sup>44/</sup> See Letter from J. Virgil Mattingly, General Counsel of the Board, to Allen I. Isaacson, Esq., dated March 8, 1989.

<sup>45/</sup> The Board also notes that New UBS has selected the current home state of Swiss Bank, rather than UBS, as its home state for purposes of Federal banking laws.

a substantial number of shareholders who did not own shares of UBS prior to the transaction, and current directors of Swiss Bank will represent 50 percent of the board of directors of New UBS.<sup>46/</sup> New UBS, moreover, is an entity that currently is jointly owned by UBS and Swiss Bank and is not, as in the previous case, a company beneficially owned solely by the shareholders of the grandfathered foreign company.<sup>47/</sup>

Based on these and all the facts of record, and viewing the proposed transaction as a whole, the Board concludes that New UBS does not qualify for grandfather rights to engage in nonbanking activities in the United States under section 8(c) of the IBA. Section 8 of the IBA grants a two-year period in which to conform nonbanking activities conducted under that section.<sup>48/</sup> Accordingly, New UBS must conform all investments made in reliance on section 8(c) of the IBA to the requirements of the BHC Act within two years of the date of this order.

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<sup>46/</sup> In this case, 40 percent of the shares of New UBS would be owned by existing shareholders of Swiss Bank.

<sup>47/</sup> Notificants contend that the proposed transaction is similar to a transaction reviewed and permitted by the Board under section 4(f) of the BHC Act. See Letter from William W. Wiles, Secretary of the Board, to Harvey N. Bock, Esq., dated May 28, 1997 (involving merger of Dean, Witter, Discover & Co. ("Dean Witter") and Morgan Stanley Group, Inc.). The statutory grandfather rights are not the same under section 8(c) of the IBA as under section 4(f) of the BHC Act, and the form and substance of the two transactions are different. In this transaction, for example, UBS will merge with and into New UBS, the corporate existence of UBS will cease after consummation of the proposal, and New UBS will operate under the banking charter of a nongrandfathered company (Swiss Bank), while in the Dean Witter transaction, the company with grandfather rights (Dean Witter) was at all times the ultimate parent and surviving company.

<sup>48/</sup> See 12 U.S.C. § 3106(c)(2).

## Conclusion

On the basis of all the facts of record, the Board has determined that the notice and application should be, and hereby are, approved, subject to all the terms and conditions in this order and the Section 20 Orders, as modified by the Modification Orders.<sup>49/</sup>

The Board's approval of the nonbanking aspects of the proposal extends only to activities conducted within the limitations of those orders and this order, including the Board's reservation of authority to establish additional limitations to ensure that Notificants' activities are consistent with safety and soundness, avoidance of conflicts of interests, and other relevant considerations under the BHC Act. Underwriting and dealing in any manner other than as approved in this order and the Section 20 Orders (as modified by the Modification Orders) is not within the scope of the Board's approval and is not authorized for UBS Securities. The Board's determination is subject to all the terms and conditions

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<sup>49/</sup> Certain commenters contend that the Board should delay action on the proposal until other authorities, organizations or independent commissions, including the Volcker Commission, complete their investigations into matters related to the retention and disposition by Swiss banks of assets owned by Holocaust victims, or should conduct its own investigation into these matters. One commenter also contends that the Board should conduct an investigation into the global derivatives activities of UBS. The Board is required under applicable law and its regulations to act on applications submitted under the BHC Act and the IBA within specified time periods. As discussed above, the Board has carefully reviewed the record in this case, including information received from the Volcker Commission, the State Department and the NYSBD and confidential examination and other supervisory information assessing the financial and managerial resources of the organizations involved, in light of the Board's limited jurisdiction under the BHC Act and the IBA. Based on all the facts of record, the Board concludes that the record is sufficient to act on this proposal under the factors the Board is required to consider under the relevant statutes and that delay of this proposal or an independent investigation by the Board is not warranted.

set forth in Regulation Y, including those in sections 225.7 and 225.25(c) of Regulation Y (12 CFR. 225.7 and 225.25(c)), and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders issued thereunder.

In addition, should any restrictions on access to information on the operations or activities of New UBS or any of its affiliates subsequently interfere with the Board's ability to determine and enforce compliance by New UBS or its affiliates with applicable federal statutes, the Board may require termination of any of the direct or indirect activities of New UBS in the United States or, in the case of an office licensed by the OCC, recommend termination of such office.

The Board's decision is specifically conditioned on compliance with all the commitments made in connection with this notice and application, including the commitments discussed in this order, and the conditions set forth in this order and the above-noted Board regulations and orders.<sup>50/</sup> These commitments and conditions are deemed to be conditions imposed in writing by the Board in connection with its findings and decision, and, as such, may be enforced in proceedings under applicable law.

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<sup>50/</sup> The Board's authority to approve the establishment of the proposed offices parallels the continuing authority of the OCC to license federal offices, or of the various states to license state offices, of a foreign bank. The Board's approval of this application does not supplant the authority of the OCC to license the federal offices of New UBS or the authority of the various states and their agents, the relevant state supervisors, to license the various state offices, in accordance with any terms or conditions that the OCC or the relevant state supervisors, as the case may be, may impose.

The proposal shall not be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York, acting pursuant to delegated authority.

By order of the Board of Governors,<sup>51/</sup> effective June 8, 1998.

(signed)

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Robert deV. Frierson  
Associate Secretary of the Board

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<sup>51/</sup> Voting for this action: Chairman Greenspan and Governors Kelley, Meyer, Ferguson, and Gramlich. Absent and not voting: Vice Chair Rivlin and Governor Phillips.